

City of Newburyport Zoning Board of Appeals

Application for a SPECIAL PERMIT for NON-CONFORMITIES

Petitioner: Jennifer & Hunter Flynn c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

Phone: 978-463-7700 Email: lisa@mtclawyers.com

Property Address: 44 High Street

Map and Lot(s): 21 - 79 Zoning District: R2/DCOD

Book and Page(s): 36962 - 511

Owner(s) Name: Jennifer & Hunter Flynn

Mailing Address (if different): _____

This request for a Special Permit for Non-Conformities is made under section(s):
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

- | | |
|--|---|
| <input checked="" type="checkbox"/> Extension or Alteration (IX.B.2) | <input type="checkbox"/> Over 500 s.f. increase (IX.B.3.c) |
| ___ Parking | <input type="checkbox"/> Plum Island Overlay District (XXI-G) |
| ___ Upward Extension | ___ FAR |
| ___ Open Space | ___ Footprint Expansion |
| ___ Height | ___ Height Increase |
| ___ Lot Area | |
| ___ Use | |

Description of request:

Remove rear one-story section of single-family residence and construct two-story addition.

All information contained within this application will become a formal part of the Zoning Board of Appeals proceedings and decision.

City of Newburyport Zoning Board of Appeals
Application for a SPECIAL PERMIT for NON-CONFORMITIES

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	7,320 sf	7,320 sf	10,000 sf
Frontage	50 ft	50 ft	90 ft
Height*	< 35 ft	< 35 ft	35 ft
Lot Coverage (%)**	27.8%	29.5%	25%
Open Space (%)***	67%	65.2%	40%
Front Setback	10.9 ft	10.9 ft	25 ft
Side A Setback	5.3 ft	5.3 ft	10 ft
Side B Setback	5.0 ft	5.0 ft	10 ft
Rear Setback	107.9 ft	103.3 ft	25 ft
Parking Spaces	2	2	2
FAR****			

*Height is measured to median roof line.

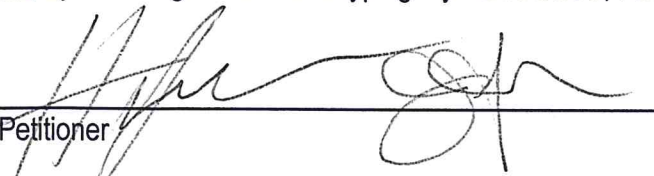
**Total building footprint divided by the lot area expressed as a percentage.

***Area unoccupied by building, parking areas, or driveways expressed as a percentage of lot area. Pools, patios, and decks may be included in open space.

****FAR is only applicable in the Plum Island Overlay District (PIOD).

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

By checking this box and typing my name below, I am electronically signing this application.



 Petitioner

By checking this box and typing my name below, I am electronically signing this application.

 Owner (if different)



Mead, Talerman & Costa, LLC
Attorneys at Law

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Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

July 1, 2020

By Hand

Rob Ciampitti, Chair
Zoning Board of Appeals
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Request for Special Permit for Non-Conformities;
44 High Street, Newburyport, MA (the "Property")
Assessor's Map: 21 Lot: 79

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Jennifer and Hunter Flynn (the "Applicants"), the owners of the Property, relative to the construction of an addition to a single-family residence (the "Structure"). The Applicants seek a Special Permit for Non-Conformities for the project.

The Property is located in the R2 zoning district and Demolition Control Overlay District ("DCOD") under the Newburyport Zoning Ordinance (the "Ordinance"). The Property is pre-existing, nonconforming for lot area, frontage, and lot coverage. The Property measures 7,320 square feet and has 50 feet of frontage; the R2 district requires a minimum lot size of 10,000 square feet and 90 feet of frontage. The lot coverage is 27.8% where the maximum allowable lot coverage is 25%. The Structure is pre-existing nonconforming for front setback and both side yard setbacks. The R2 district requires a minimum front yard setback of 25 feet and side yard setbacks of 10 feet; the front yard setback is 10.9 feet and the side yard setbacks are 5.3 feet and 5.0 feet. The height, rear yard setback, open space, and parking are all in compliance with the Ordinance.

The Applicants propose to construct an addition to the rear of the Structure comprising one- and two-stories. To accomplish this, the Applicants propose to demolish an existing one-story section at the rear of the Structure, which requires review at the Newburyport Historical Commission for a roof line change.

The proposed addition will extend the pre-existing nonconforming side yard setback on the eastern side of the Structure. The existing eastern side yard setback is 5 feet; the one-story section of the proposed addition will have a side yard setback of 6.9 feet. The western side yard setback and rear yard setback for the proposed addition will comply with the requirements of the Ordinance. The proposed addition will increase the pre-existing nonconforming lot coverage from 27.8% to 29.5%, an increase of 1.7%.

The Applicant will require a Special Permit for non-conformities under section IX-B-2.A of the Ordinance for the proposed addition. Section IX-B-2.A allows the

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054
Phone 508.376.8400

modification of a pre-existing nonconforming single-family structure where the Board finds that:

1. **There will be no addition of a new nonconformity; and**
2. **The proposed change will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure.**

1. As is shown on the plans, there will be no addition of a new nonconformity. The proposed addition will extend one pre-existing nonconforming side yard setback and increase the pre-existing nonconforming lot coverage but will otherwise comply with the Ordinance.
2. The proposed change will not be substantially more detrimental to the neighborhood than the pre-existing nonconforming Structure. As shown on the plans attached hereto, the proposed addition is in the same shape of the existing footprint but is slightly larger. The increase in lot coverage is 1.7%, reflecting this slightly expanded footprint. The proposed rear yard setback is 103.3 feet, far exceeding the minimum requirement of 25 feet. Additionally, a MIMAP view of the neighborhood attached as **Exhibit A** reflects that the proposed addition would not be out of character with the size of the buildings on the surrounding properties. The Property is long and narrow; 46 High Street (Parcel 21-78), which abuts the Property to the west, has a much longer footprint on a shorter lot. Likewise, 92 Bromfield (Parcel 21-81), 88-90 Bromfield (Parcel 21-82A/B), and 86 Bromfield (Parcel 21-83) also have longer building footprints on their respective lots. As such, the expansion of the footprint at the rear of the Structure for the proposed addition which, again, is an increase in lot coverage of 1.7%, is not substantially more detrimental to the neighborhood than the existing Structure.

The Applicant respectfully requests that the Board find that the proposed changes are not substantially more detrimental to the neighborhood than the pre-existing, nonconforming Structure and grant a Special Permit for Non-Conformities.

Respectfully submitted
Jennifer and Hunter Flynn
By their Attorney


Lisa L. Mead

Attachment
cc: client

CITY OF NEWBURYPORT, MA
ZONING DETERMINATION

APR# 2020-047

Name: Jennifer and Hunter Flynn

Address: 44 High Street Zoning District(s): R2/DCOD

Request: Revoke existing rear portion of existing historic structure and construct new 2 story addition at rear extending a nonconforming side yard setback.

ZONING BOARD REVIEW REQUIRED

Variance

- Dimensional Controls (VI)
 - Lot Area
 - Lot Frontage
 - Lot Coverage
 - Open Space
 - Height
 - Lot Width
- Front Yard
 - Side Yard
 - Rear Yard
- Parking (VII)
- Modification

Sign Variance

- Signs (VIII)
 - Type
 - Lighting
- Size
- Location

Other

Special Permit

- Table of Use Regulations (V.D) #: _____
- Spacing (VI.D)
- In-Law Apartment (XIIA)
- Bonus for Multifamily Developments (XVI)
- Personal Wireless Communication Services (XX)
- Demolition Control Overlay District (XXVIII)*
- Wind Energy Conversion Facilities (XXVI)
- Other _____

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
 - Parking
 - Upward Extension
 - Open Space
 - Height
 - Lot Area
 - Use
 - Rear Yard
 - Lot Coverage
 - Side Yard
 - Lot Frontage
 - Front Yard
- Over 500 sf. increase (IX.B.3.c)
 - Plum Island Overlay District (XXI-G)
 - FAR
 - Lot Coverage
 - Height
 - Setbacks
 - Open Space

PLANNING BOARD REVIEW REQUIRED

Special Permit

- Table of Use Regulations (V-D) # _____
- One residential structure per lot (VI.C)
- Open Space Residential Development (XIV)
- Water Resource Protection District (XIX)
- Federal Street Overlay District (XXII)
- Courts and Lanes (XXIII)
- Waterfront West Overlay District (XXIV)
- Towle Complex Redev. Overlay District (XXV)
- Downtown Overlay District (XXVII)*
- Other _____

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
 - Parking
 - Upward Extension
 - Open Space
 - Height
 - Lot Area
 - Use
 - Rear Yard
 - Lot Coverage
 - Side Yard
 - Lot Frontage
 - Front Yard
- Over 500 sf. increase (IX.B.3.c)

Smart Growth District (XXIX)

- Plan Approval

Site Plan Review (XV)

- Major
- Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

Review for tree/sidewalk subst. improv.

The name typed below represents the intent to sign the foregoing document:

Jennifer Blanchet

6/23/2020

Newburyport Zoning Administrator

Date

44 HIGH ST

Location 44 HIGH ST

MBLU 21/79///

Owner FLYNN HUNTER & JENNIFER T/E

Assessment \$1,036,300

PID 1004

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$750,100	\$286,200	\$1,036,300

Owner of Record

Owner FLYNN HUNTER & JENNIFER T/E

Sale Price \$1,090,000

Co-Owner

Certificate

Address 44 HIGH ST

Book & Page 36962/0511

NEWBURYPORT, MA 01950

Sale Date 08/24/2018

Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
FLYNN HUNTER & JENNIFER T/E	\$1,090,000		36962/0511	00	08/24/2018
MULLINS MICHAEL G	\$138,000		11045/0315	1N	12/06/1991
LOWELL LOUISE E	\$0		06448/0758		03/07/1978

Building Information

Building 1 : Section 1

Year Built: 1889

Living Area: 2,844

Building Attributes	
Field	Description
Style	Antique
Model	Residential
Stories:	2.5

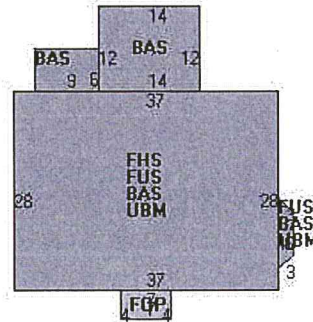
Occupancy	1
Exterior Wall 1	Clapboard
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Pine/Soft Wood
Interior Flr 2	
Heat Fuel	Gas
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	5 Bedrooms
Total Bthrms:	2
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	8 Rooms
Bath Style:	Average
Kitchen Style:	Average

Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPhotos/A01V0109/70.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPhotos/Sketches/1004_1070.jpg)

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	1,274	1,274	
FUS	Upper Story, Finished	1,052	1,052	
FHS	Half Story, Finished	1,036	518	
FOP	Porch, Open	28	0	
UBM	Basement, Unfinished	1,052	0	
		4,442	2,844	

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL3	FIREPLACE 2 ST	1 UNITS	\$4,000	1
FPO	EXTRA FPL OPEN	1 UNITS	\$1,300	1

Land

Land Use

Use Code 1010
 Description SINGLE FAM

Land Line Valuation

Size (Acres) 0.17
 Depth 0
 Assessed Value \$286,200

Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
BRN3	1 STORY WLOFT			660 S.F.	\$4,800	1

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$621,200	\$286,200	\$907,400

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NOTES:

- 1.) THIS PLAN WAS PREPARED FROM AN INSTRUMENT SURVEY PERFORMED IN MARCH OF 2020.
- 2.) SUBSURFACE AND ABOVE GROUND UTILITIES WERE NOT INCLUDED AS PART OF THIS SURVEY, THEY WERE NOT RESEARCHED NOR SHOWN HEREON.
- 3.) A TITLE EXAMINATION WAS NOT PROVIDED FOR THIS SURVEY. AS SUCH OTHER MATTERS OF RECORD MAY EXIST AND NOT BE SHOWN HEREON.

RECORD OWNERS:

HUNTER & JENNIFER FLYNN
44 HIGH STREET
NEWBURYPORT, MA

REFERENCES:

DEED BOOK 36962 PAGE 511

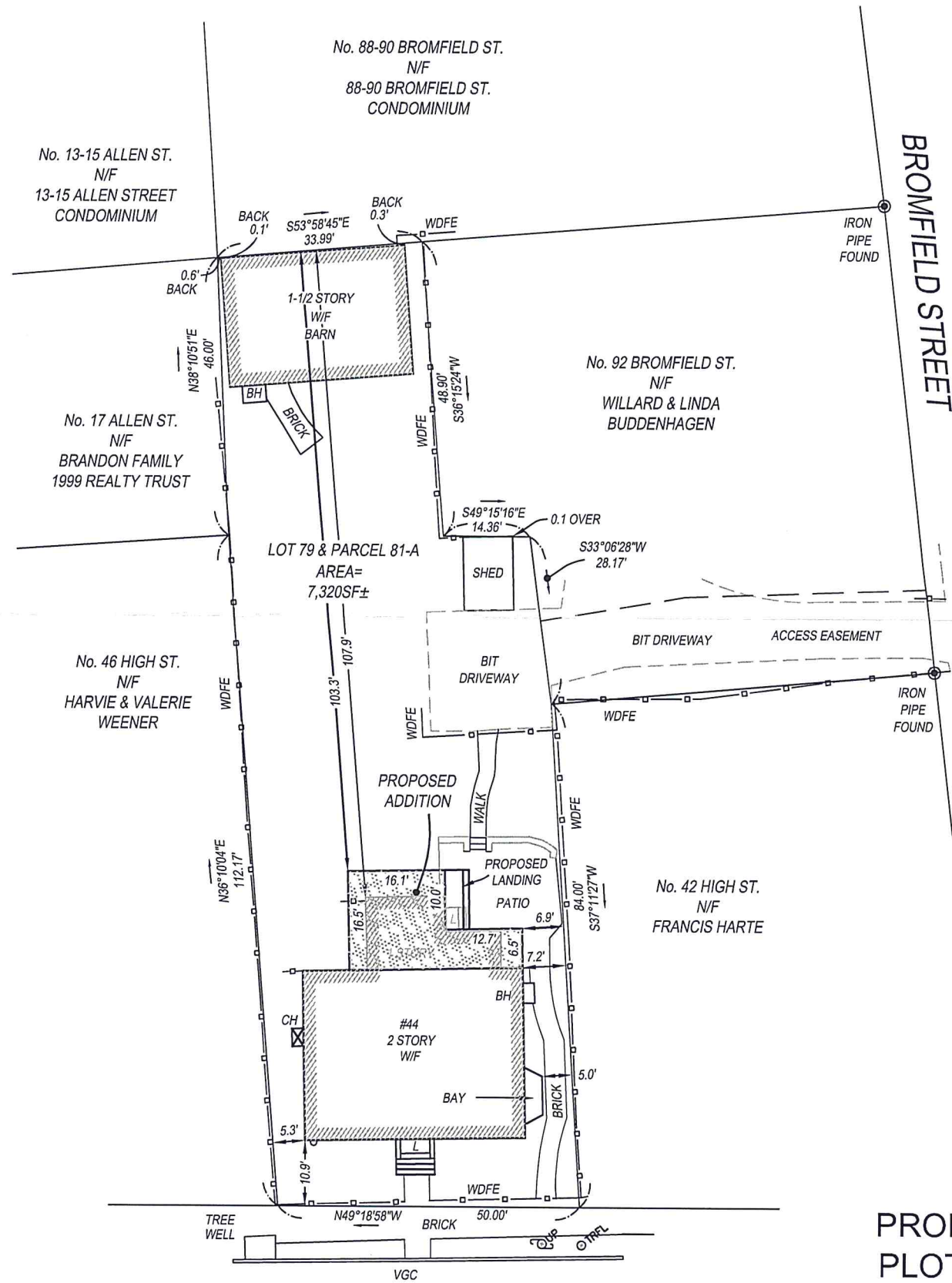
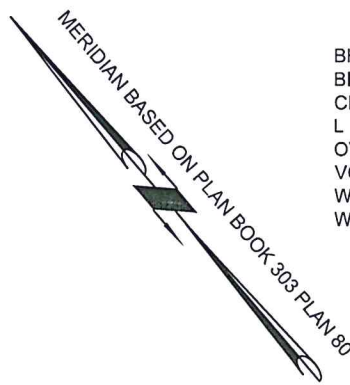
PLAN BOOK 303 PLAN 80
PLAN BOOK 437 PLAN 88
PLAN BOOK 387 PLAN 97

LEGEND:

BH	BULK HEAD
BIT	BITUMINOUS
CH	CHIMNEY
L	LANDING
OV	OVER
VGC	VERTICAL GRANITE CURB
WDFE	WOOD FENCE
W/F	WOOD FRAME

ZONING:

R2 (SINGLE FAMILY) DCOD (EXISTING)	
LOT AREA:	7,320±SF
FRONTAGE:	50.00'
FRONT OFFSET:	10.9'
SIDE OFFSET:	5.0'
REAR OFFSET:	107.9'
LOT COVERAGE:	27.8%
OPEN SPACE:	67.0%
(PROPOSED)	
LOT AREA:	7,320±SF
FRONTAGE:	50.00'
FRONT OFFSET:	10.9'
SIDE OFFSET:	5.0'
REAR OFFSET:	103.3'
LOT COVERAGE:	29.5%
OPEN SPACE:	65.2%
(REQUIRED)	
LOT AREA:	10,000 SF
FRONTAGE:	90'
FRONT OFFSET:	25'
SIDE OFFSET:	10'
REAR OFFSET:	25'
LOT COVERAGE:	25%
OPEN SPACE:	40%



HIGH (PUBLIC - VARIABLE WIDTH) STREET

**PROPOSED
PLOT PLAN**
IN
NEWBURYPORT, MA

AT 44 HIGH STREET
PREPARED FOR

HUNTER & JENNIFER FLYNN

BY

SUMMIT SURVEYING INC.

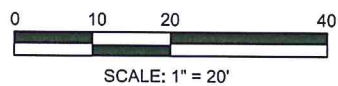
4 S. POND STREET, NEWBURYPORT, MA 01950

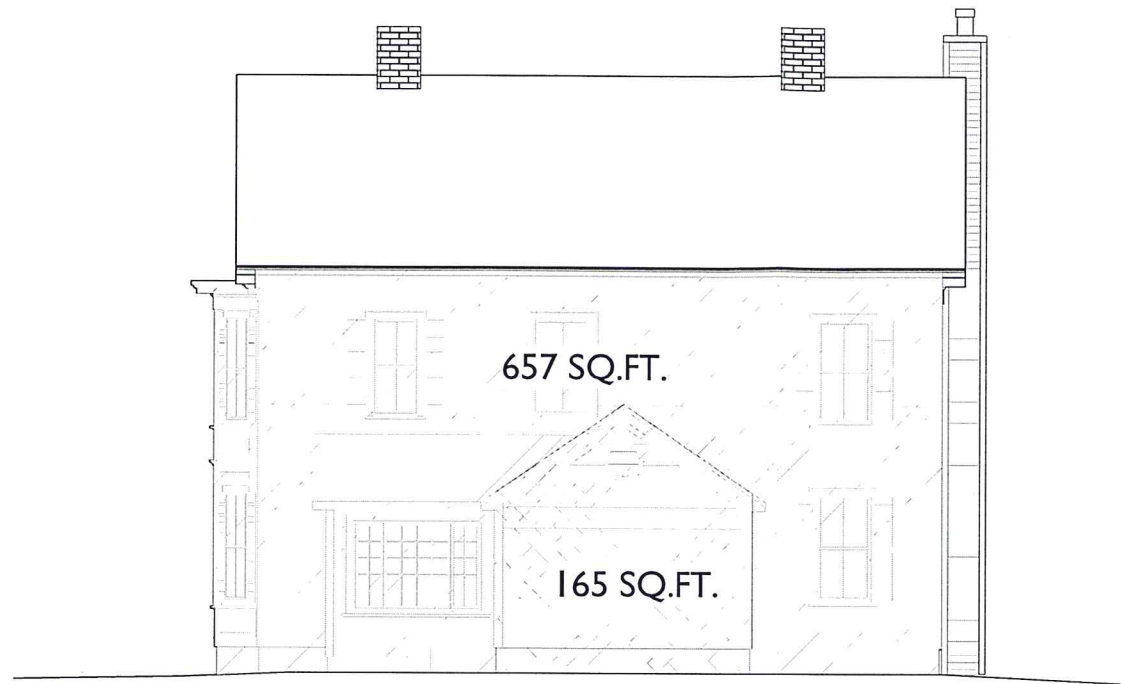
TEL. 978-692-7109

WWW.SUMMITSURVEYINGINC.COM

JUNE 5, 2020

20-0112





1 EXISTING REAR ELEVATION
Scale: 1/4" = 1'-0"

WALLS TO BE REMOVED
FRONT: 0
LEFT: 111
REAR: 165
RIGHT: 51
= 327 SQ. FT.

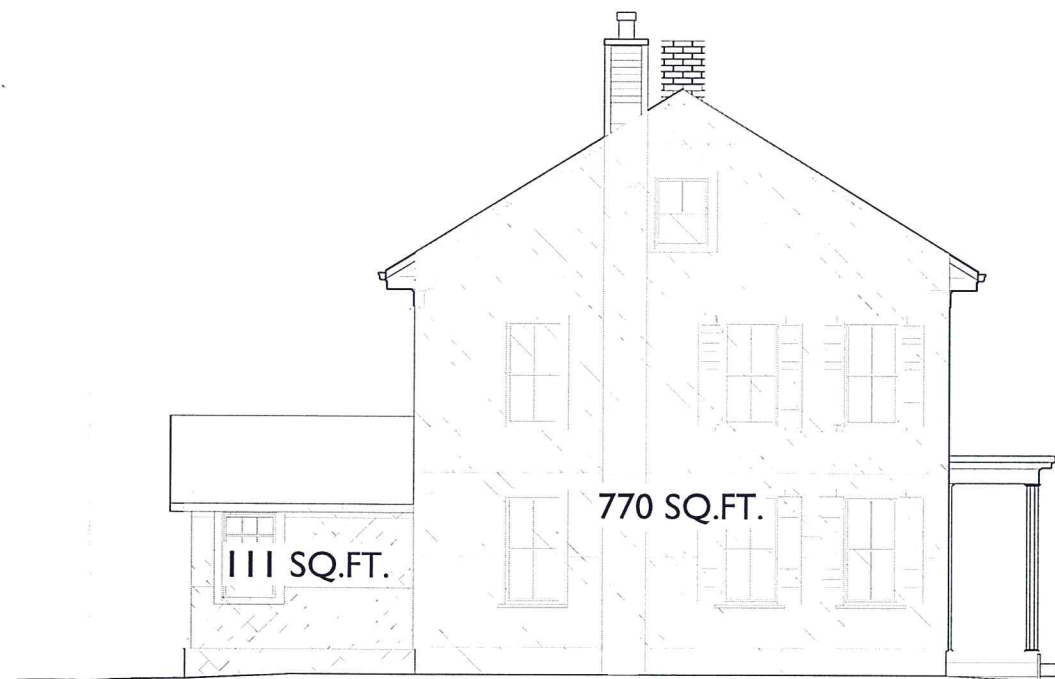
WALLS TO REMAIN
FRONT: 822
LEFT: 770
REAR: 657
RIGHT: 843
= 3,092 SQ. FT.

TOTAL WALL AREA
3,092 + 327 = 3,419 SQ. FT.

% OF WALL TO BE REMOVED
327 / 3,419 SQ. FT. = 9.56%



2 EXISTING RIGHT ELEVATION
Scale: 1/4" = 1'-0"



3 EXISTING LEFT ELEVATION
Scale: 1/4" = 1'-0"

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FLYNN RESIDENCE
44 HIGH STREET, NEWBURYPORT, MA

REVISION & REISSUE NOTES

No.	Date	Notes

Project # 2019-41	Project Manager M.L.	Date 06/30/2020
Scale: AS NOTED		

EXISTING ELEVATIONS

X2.1



1 PROPOSED REAR ELEVATION
Scale: 1/4" = 1'-0"



2 PROPOSED RIGHT ELEVATION
Scale: 1/4" = 1'-0"



3 PROPOSED LEFT ELEVATION
Scale: 1/4" = 1'-0"

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FLYNN RESIDENCE
44 HIGH STREET, NEWBURYPORT, MA

REVISION & REISSUE NOTES

No.	Date	Notes

Project #	Project Manager	Date
2019-41	M.L.	06/30/2020

Scale: AS NOTED

PROPOSED
ELEVATIONS

A2.1

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